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Attorneys for Plaintiff  
FINJAN LLC

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
(SAN JOSE DIVISION)

FINJAN LLC, a Delaware Limited Liability  
Company,

Plaintiff,

v.

SONICWALL INC., a Delaware Corporation,  
Defendant.

Case No. 5:17-cv-04467-BLF (VKD)

**PLAINTIFF FINJAN LLC'S MOTION  
FOR LEAVE TO FILE MOTION FOR  
RECONSIDERATION OF THE COURT'S  
MARCH 5, 2021 ORDER**

Date: N/A  
Time: N/A  
Hon. Beth Labson Freeman  
Ctmm: 3, 5<sup>th</sup> Floor

Pursuant to Civil L.R. 7-9(a), Plaintiff Finjan LLC (“Finjan”) respectfully requests leave to file a Motion for Reconsideration of the Court’s March 5, 2021 Order concerning the asserted claims in the ’305 and ’408 Patents and whether they permit a single computer or multiple computers acting as a system to satisfy the limitations of claims 1 and 22 of the ’408 Patent and claims 5 and 6 of the ’305 Patent.

## **I. LEGAL STANDARD**

A party must obtain leave of Court before noticing a Motion for Reconsideration. Civil Local Rule 7-9(a). A request for leave to file a Motion for Reconsideration may be granted if the moving party shows:

- (1) That at the time of the motion for leave, a material difference in fact or law exists from that which was presented to the Court before entry of the interlocutory order for which reconsideration is sought. The party also must show that in the exercise of reasonable diligence the party applying for reconsideration did not know such fact or law at the time of the interlocutory order; or (2) The emergence of new material facts or change of law occurring after the time of such order; or (3) A manifest failure by the Court to consider material facts or dispositive legal arguments which were presented to the Court before such interlocutory order.

Civil L.R. 7-9(b). As explained below, the Court’s March 5<sup>th</sup> Order, respectfully, legally errs by finding factual issues against Finjan, the non-moving party and further making a legal error by narrowing the claims to apply to a system where any particular computer in the accused system must be the exact same computer satisfying all of the limitations. *Id.* at 7-9(b)(1) and (3).

## **II. ARGUMENT**

Finjan requests leave to file a Motion for Reconsideration, pursuant to Local Rule 7-9(b), regarding the Court’s determination that the accused computers (Capture ATP + Gateway and

Capture ATP + ESA) are “separate, remote computers.” Order at 18. Finjan’s proposed Motion for Reconsideration is attached as Exhibit A (filed under seal), and explains that the Court’s order improperly narrows the claims in a manner contrary to the cases it applies, and further, with respect to claim 22 of the ’408 Patent, narrows that claim inconsistently with the claim language. Reconsideration of these issues is appropriate under Local Rule 7-9(b)(1) and (3).

In addition, there was “failure by the Court to consider material facts . . . which were presented to the Court” before the March 5<sup>th</sup> Order issued. Civil L.R. 7-9(b)(3). Specifically, moving party SonicWall, Inc. did not dispute that the accused computers function as a single computer system. *See* Exhibit A at 2-3. In the Order, while acknowledging that a computer or a system may be comprised of multiple computers, the Court then applied the law in an inconsistent way to Finjan’s infringement theory—requiring the exact same computer within the system to satisfy all of the claim limitations. *See* Exhibit A at 3-4.

Leave should be granted because Finjan has been diligent in seeking leave, filing its request just fourteen days after the March 5<sup>th</sup> Order, which was densely packed with issues spanning nearly every patent-in-suit.

### III. CONCLUSION

For the foregoing reasons, Finjan respectfully requests leave to file the attached Motion for Reconsideration.

Respectfully Submitted,

Dated: March 19, 2021

/s/ Jason W. Wolff

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FINJAN LLC

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on March 19, 2021 to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system. Any other counsel of record will be served by electronic mail and regular mail.

/s/ Jason W. Wolff

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